

ICPS newsletter

Economic legislation in Ukraine becomes more predictable

The predictability of Ukrainian legislation improved over the last year, given the first efforts made to determine public policy priorities and to reach consensus among the arms of government. Meanwhile, key documents which should ensure the integrity of the legal framework in Ukraine—new civil, customs, and land codes—are still to be adopted. A study titled “New economic legislation: 1999–2000”, developed by the Coordination and Analysis Centre for Ukrainian Business Associations and the International Centre for Policy Studies, aimed to analyse the changes in economic legislation which took place over the last 12 months by their impact on the business environment in Ukraine. The study was published in a new issue of ICPS’s journal Policy studies, which appeared in print this week

The past year’s changes show incipient tendencies which will determine the further direction of Ukrainian legislative developments:

- adoption of new codes which will replace legislation dating to the Soviet period. The necessity of new civil and land codes emerged from the need to strengthen private ownership in the realm of property and land relations;
- reconciliation and improvement of current laws, particularly, the Tax Code with regard to tax legislation;
- development of legislation in line with European and WTO standards. These modifications will help to promote competition and therefore encourage business development and more effective resource allocation.

During the last year, legislation pertaining to the regulation of economic activity, taxation, agriculture, and the energy sector underwent significant changes. Meanwhile, there were no key changes made in the realm of contract enforcement or stock market infrastructure. Ukrainian authorities should pay more attention to the development of legislation on protecting competition and intellectual property rights.

Regulation of business activity

Changes in legislation regarding business regulation were directed at determining procedures for government agency actions, and their regulation. The goal of these modifications was to establish quality market regulations. Procedures for drafting and approving regulatory acts were imposed, envisioning the evaluation of regulatory impact and public participation.

The Law “On licensing” will guarantee easier procedures for new businesses entering the market. The law stipulates license application procedures based on a declarative principle (rather than a permission-granting one). Draft laws on certification, standardisation, and accreditation, coordinated with EU standards, envision significant modifications in the structure of government agencies and a shift from compulsory to voluntary certification. These laws will encourage the development of competition and higher quality of Ukrainian products.

Legislative regulation of tax authorities remains the most acute problem. During the last 12 months, the authorities of the State Tax Administration (STA) were significantly enlarged; in particular, the

STA was entitled to submit proposals regarding tax legislation and to dispose of property seized as tax collateral without the supervision of third parties. As a result, there are increased risks of inconsistent taxation policy and abuses of power.

Taxation policy

Innovations in the tax system (tax list, rates, and bases) promoted economic growth; tax legislation became more stable, equality in tax burden distribution increased, and the tax burden was lessened. These tendencies will be even stronger when the Verkhovna Rada of Ukraine passes the Tax Code.

However, there is still no consensus on the degree of reduction of the VAT, corporate tax, or personal income tax rates. Uncertainty about the future taxation policy will persist until consensus is reached on the Tax Code regulations. The authorities of tax agencies, the rights of taxpayers, and the mechanism of tax collateral are actively being discussed. The final version of the Tax Code should stipulate these issues in detail.

Foreign trade

Guided by the priority objectives stated in the EU Partnership and Cooperation Agreement and WTO requirements, Ukrainian authorities have introduced legislation changes directed at liberalising foreign trade. Import duty rates were reduced and import restrictions were abolished. The draft Customs Code complies with WTO standards. These measures will correct and simplify the procedures for customs passage.

Meanwhile, protectionist measures

remain without changes in the domestic metallurgical and automobile industries and agriculture. They distort competition and force Ukraine's trade partners to apply compensatory sanctions.

Competition policy

According to the EU Partnership and Cooperation Agreement, the development of legislation pertaining to protection of competition is a priority objective of Ukraine. Today, legislation which should ensure protection of competition is rather weak. Only first steps have been made in order to set control over maintaining fair competition in those spheres where market self-regulation is not able to promote competition. The Verkhovna Rada approved a framework law on natural monopolies only in April 2000. The further development of competition legislation will be guided by the aim of harmonising Ukrainian and European antimonopoly legislation.

Special economic zones (SEZ) threaten the development of competition in Ukraine. The main problems of SEZ operation are lack of clear and strict requirements concerning SEZ specialisation; improperly large size of SEZ and priority development areas; and opaque and unclear procedures for entering/exiting and excessive regulation of SEZ entity activities.

Legislation on the protection of intellectual property rights is also an important factor for promoting fair competition. Creating an integrated legal framework and ensuring law

execution are the main objectives in this realm. Effective protection of intellectual property rights will encourage foreign investments into Ukraine and stimulate the creation of domestic intellectual property.

Contract enforcement

During the last 12 months, legislation pertaining to contract enforcement underwent no changes. A new version of the Civil Code of Ukraine, passed second reading in the Verkhovna Rada, is the most remarkable event of this period. The goal of the new Civil Code is to set uniform rules of the game in the realm of property relationships, on the basis of an even playing field for all business entities, and to ensure their freedom of choice in entering these relationships. However, the government and the Verkhovna Rada could not reach a compromise regarding judicial system reform.

Privatisation and the stock market

During the last year, the legislative framework regarding the stock market and its infrastructure was not improved. The main locomotive for stock market development is privatisation, which was accelerated thanks to the adoption of several legislative instruments.

Sectoral regulation

Legislative and normative acts for regulation of the agricultural sector that were adopted over the last twelve months can be split into two groups: (1) documents that determine property rights and (2) documents that regulate

activities in the agricultural market. All these documents have a common positive feature—the development of the agricultural sector based on market principles. The further development of the agricultural sector will significantly depend on the Land Code.

Adoption of an amendment to the law "On electricity" was the main event in the realm of energy sector regulation. These amendments eliminate the majority of reasons for non-payments in the energy market, but simultaneously increase the rights of the government to interfere in the activities of wholesale electricity market agents.

The major problems of banking regulation in Ukraine are instability and the requirement that they perform fiscal functions. Frequent changes in regulations, coupled with the application of administrative measures, diminish the attractiveness of the banking sector for investors. Fiscal functions and the failure to maintain bank secrecy scare away potential clients. The new law "On banks and banking activities" should eliminate these problems. n

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Hurry to order ICPS publications for the year 2001!

Dear ladies and gentlemen,

Please note that 5 January 2001 is the deadline for ordering publications of the International Centre for Policy Studies for the year 2001, and for returning client questionnaires. Those who have received our publications but do not return the filled-out form and questionnaire before the deadline will be excluded from the mailing list of ICPS publications!

The form and questionnaire were sent to clients of the International Centre for Policy Studies at the beginning of December. If you did not receive these documents, please contact Oleksii Blinov, ICPS Marketing Manager (tel. 463-6337, e-mail: marketing@icps.kiev.ua).

Sincerely, ICPS Publications Group

Please note that the next issue of ICPS newsletter will appear on 15 January 2001. Happy holidays!

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The International Centre for Policy Studies is an independent non-profit research organisation with the objective of improving the Ukrainian policy development process. This is achieved by increasing the know-how of key government officials for policy choices, formulation, and debate, and the awareness of the public-at-large of the benefits of policy.

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